

UNITED STATES DISTRICT COURT
CENTRAL DISTRICT OF CALIFORNIA

JAMES RUTHERFORD

Plaintiffs,

v.

SAIGON DISH , et al.

Defendants.

CASE NO:

5:18-cv-02658-DSF-SP

ORDER RE: COURT TRIAL

I. ORDER RE DEADLINES:

- A. Adding Parties and Amending Pleadings: 7/22/2019
- B. Discovery Cut-Off: 10/31/2019
- C. Expert Witness Exchange Deadline:
Initial: 11/8/2019;
Rebuttal: 11/22/2019;
Cut-off: 12/6/2019
- D. Motion Hearing Cut-off: 2/10/2020
- E. ADR Cut-off: 2/24/2020
- F. Final Pre-Trial Conference:
4/20/2020 at 03:00 PM
- G. Trial Date:
5/19/2020 at 08:30 AM
Trial Estimate: 2-4 day(s)

II. ORDER RE TRIAL PREPARATION

III. ORDER GOVERNING CONDUCT OF ATTORNEYS AND PARTIES

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I

DEADLINESA. **PARTIES/PLEADINGS**

The Court has established a cut-off date for adding parties or amending pleadings. All motions to add parties or to amend the pleadings must be noticed to be heard on or before the cut-off date. All unserved parties will be dismissed at the time of the pretrial conference pursuant to Local Rule 16–8.1.

B. **DISCOVERY AND DISCOVERY CUT-OFF**

1. Discovery Cut-off: The Court has established a cut-off date for discovery, including expert discovery, if applicable. This is not the date by which discovery requests must be served; it is the date by which all discovery, including all hearings on any related motions, is to be completed.

2. Discovery Disputes: Counsel are expected to comply with all Local Rules and the Federal Rules of Civil Procedure concerning discovery. Whenever possible, the Court expects counsel to resolve discovery problems among themselves in a courteous, reasonable, and professional manner. The Court expects that counsel will adhere strictly to the Civility and Professionalism Guidelines (which can be found on the Court’s website under “Attorney Information>Attorney Admissions”).

3. Discovery Motions: Any motion challenging the adequacy of discovery responses must be filed, served, and calendared sufficiently in advance of the discovery cut-off date to permit the responses to be obtained before that date, if the motion is granted.

4. Depositions: All depositions shall commence sufficiently in advance of the discovery cut-off date to permit their completion and to permit the deposing party enough time to bring any discovery motions concerning the deposition before the cut-off date. Given the requirements to “meet and confer,” and notice

requirements, in most cases a planned motion to compel must be discussed with opposing counsel at least six weeks before the cut-off.

5. Written Discovery: All interrogatories, requests for production of documents, and requests for admissions must be served sufficiently in advance of the discovery cut-off date to permit the discovering party enough time to challenge (via motion practice) responses deemed to be deficient.

6. Expert Discovery: All disclosures must be made in writing. The parties should begin expert discovery shortly after the initial designation of experts. The final pretrial conference and trial dates will not be continued merely because expert discovery is not completed. Failure to comply with these or any other orders concerning expert discovery may result in the expert being excluded as a witness.

C. LAW AND MOTION

The Court has established a cut-off date for the hearing of motions. All motions must be noticed so that the hearing takes place on or before the motion cut-off date. Counsel must provide Chambers with conformed Chambers copies of all documents. Chambers copies should not be put in envelopes. Counsel should consult the Court's Standing Order, previously provided, to determine the Court's requirements concerning motions. A copy of the Standing Order is also available on the Court's website at www.cacd.uscourts.gov > Judges' Procedures and Schedules > Hon. Dale S. Fischer.

D. FINAL PRETRIAL CONFERENCE

1. A final pretrial conference date has been set pursuant to Rule 16 of the Federal Rules of Civil Procedure and Local Rule 16-8. Unless excused for good cause, each party appearing in this action shall be represented at the final pretrial conference by the attorney who is to have charge of the conduct of the trial on behalf of such party. Counsel should be prepared to discuss streamlining the trial, including presentation of testimony by deposition excerpts or summaries, time

limits, stipulations as to undisputed facts, and qualification of experts by admitted
 resumé. The Court encourages, but does not require, counsel to agree to submit
 direct testimony of witnesses by way of declaration or written statement
 confirmed under oath by the witness. See Local Rule 16–11.2(b).

E. ALTERNATIVE DISPUTE RESOLUTION (ADR)
PROCEDURES/NOTICE OF SETTLEMENT

1. An ADR procedure must be identified in every case pursuant to Local
 Rule 16–15, et seq. The Court will normally be guided by counsel’s agreement
 as to what procedure is appropriate for the case and when the optimum time for
 that procedure is. Counsel must complete an ADR proceeding no later than the
 date set by the Court at the scheduling conference. Not to the exclusion of other
 procedures, the following are available:

- (a) a settlement conference before the magistrate
 judge assigned to the case;
- (b) a mediation before a neutral selected from
 the Court mediation Panel;
- (c) the employment (at the parties’ expense) of
 a private judge, mediator, or arbitrator.

If counsel have received a Notice to Parties of Court–Directed ADR
 Program, the parties may choose option (2) or (3) but may not choose option (1).

2. No case will proceed to trial unless all parties, including the principals
 of all corporate parties, have appeared personally at an ADR proceeding.

II

ADDITIONAL TRIAL PREPARATION

A. MOTIONS IN LIMINE

All motions *in limine* must be filed at least three weeks before the final

1 pretrial conference. Counsel are to meet and confer with opposing counsel to
2 determine whether opposing counsel intends to introduce the disputed evidence,
3 and to attempt to reach an agreement that would obviate the motion. Opposition
4 must be filed two weeks before the final pretrial conference. The Court will rule
5 on motions *in limine* at the final pretrial conference. Motions *in limine* should
6 address specific issues (i.e., *not* “to exclude all hearsay,” etc.). Motions *in limine*
7 should not be disguised motions for summary adjudication of issues. Each side is
8 limited to five motions in limine, unless the Court orders otherwise.

9 B. PROPOSED FINDINGS OF FACT AND CONCLUSIONS OF
10 LAW

11 1. For any matter requiring findings of fact and conclusions of law,
12 counsel for each party shall, no later than 21 days before trial, file with the Court
13 and serve on opposing counsel that party’s proposed findings of fact and
14 conclusions of law in the format specified in Local Rule 52–3.

15 2. Ten days before the trial date, each counsel shall file with the Court and
16 serve on opposing counsel a copy of the opposing party’s proposed findings of
17 fact and conclusions of law, marked as follows:

18 (a) Strike through those portions the party disputes;

19 (b) Bold those portions the party admits; and

20 (c) Underline those portions the party admits but considers irrelevant.

21 The parties may agree to and advise the Court of some other method of
22 differentiating among these three categories, such as color coding.

23 3. Counsel need not make a uniform determination as to an entire proposed
24 finding or conclusion. Counsel may agree with a portion, dispute another portion,
25 and consider a portion irrelevant. Counsel are urged, however, to have only a
26 single fact or conclusion of law contained in each paragraph.

27 4. The parties may submit supplemental proposed findings of fact and
28 conclusions of law during the course of the trial. If more than five supplemental

findings are proposed, the same designating procedure should be used.

5. Each party must submit its own unmarked proposed findings of fact and conclusions of law to the Chambers e-mail box in Word or WordPerfect format.

C. TRIAL EXHIBITS

1. Counsel are to prepare their exhibits for presentation at the trial by placing them in binders indexed by exhibit number with tabs or dividers on the right side. Counsel shall submit to the Court an original and one copy of the binders. The exhibits shall be in three-ring binders labeled on the spine portion of the binder as to the volume number and contain an index of each exhibit included in the volume. Exhibits must be numbered in accordance with Local Rule 16.6.

2. The Court requires that the following be submitted to the Courtroom Deputy Clerk ("CRD") on the first day of trial:

(a) The original exhibits with the Court's exhibit tags, yellow tags for plaintiff and blue tags for defendant, shall be stapled to the front of the exhibit on the upper right-hand corner with the case number, case name, and exhibit number placed on each tag.

(b) One bench book with a copy of each exhibit tabbed with numbers as described above for use by the Court. (Exhibit tags are not necessary on this copy.)

(c) Three copies of exhibit lists.

(d) Three copies of witness lists in the order in which the witnesses may be called to testify.

3. All counsel are to meet not later than ten days before trial and to stipulate, so far as is possible, to foundation, to waiver of the best evidence rule, and to those exhibits that may be received into evidence at the start of the trial. The exhibits to be so received will be noted on the extra copies of the exhibit lists.

1 D. TRIAL

2 Trial days are Tuesday through Friday from 8:00 a.m. to 2:00 p.m. with
3 three fifteen-minute breaks. If the Court is engaged in a jury trial, this court trial
4 may be conducted during the afternoons if the parties prefer that approach to a
5 continuance.

6
7 **III**

8
9 **CONDUCT OF ATTORNEYS AND PARTIES**

10
11 A. **OPENING STATEMENTS, EXAMINING WITNESSES, AND**
12 **SUMMATION**

13 1. Counsel must use the lectern for opening statements, examination of
14 witnesses, and summation.

15 2. Counsel must not consume time by writing out words, drawing charts or
16 diagrams, etc. Counsel may do so in advance.

17 3. The Court will honor (and may establish) reasonable time estimates for
18 opening statements and closing arguments, examination of witnesses, etc.

19 B. **OBJECTIONS TO QUESTIONS**

20 1. Counsel must not use objections for the purpose of making a speech,
21 recapitulating testimony, or attempting to guide the witness.

22 2. When objecting, counsel must rise to state the objection and state only
23 that counsel objects and the legal ground of objection. If counsel wishes to argue
24 an objection further, counsel must ask for permission to do so.

25 C. **GENERAL DECORUM**

26 1. Counsel should not approach the CRD or the witness box without
27 specific permission. If permission is given, counsel should return to the lectern
28 when their purpose has been accomplished. Counsel should not question a

1 witness at the witness stand.

2 2. Counsel should rise when addressing the Court, and when the Court
3 enters or leaves the courtroom.

4 3. Counsel should address all remarks to the Court. Counsel are not to
5 address the CRD, the court reporter, persons in the audience, or opposing
6 counsel. If counsel wish to speak with opposing counsel, counsel must ask
7 permission to do so. Any request for the re-reading of questions or answers shall
8 be addressed to the Court. Such requests should be limited. Repeated requests
9 may not be granted.

10 4. Counsel should not address or refer to witnesses or parties by first
11 names alone. Young witnesses (under 14) may, however, be addressed and
12 referred to by first names.

13 5. Counsel must not offer a stipulation unless counsel has conferred with
14 opposing counsel and has verified that the stipulation will be acceptable.

15 6. While Court is in session, counsel must not leave counsel table to confer
16 with any personnel or witnesses in the back of the courtroom unless permission
17 has been granted in advance.

18 7. Counsel should not by facial expression, nodding, or other conduct
19 exhibit any opinion, adverse or favorable, concerning any testimony being given
20 by a witness. Counsel should admonish counsel's own clients and witnesses to
21 avoid such conduct.

22 8. Where a party has more than one lawyer, only one may conduct the
23 direct or cross-examination of a particular witness, or make objections as to that
24 witness.

25 D. PROMPTNESS OF COUNSEL AND WITNESSES

26 1. The Court makes every effort to begin proceedings at the time set.
27 Promptness is expected from counsel and witnesses. Once counsel are engaged in
28 trial, this trial is counsel's first priority. The Court will not delay the trial except

1 under extraordinary circumstances. The Court will advise other courts that
2 counsel are engaged in trial in this Court on request.

3 2. If a witness was on the stand at a recess, counsel must have the witness
4 back on the stand, ready to proceed, when the court session resumes.

5 3. If a witness was on the stand at adjournment, counsel must have the
6 witness adjacent to, but not on the stand, ready to proceed when the court session
7 resumes.

8 4. Counsel must notify the CRD in advance if any witness should be
9 accommodated based on a disability or for other reasons.

10 5. No presenting party may be without witnesses. If counsel has no more
11 witnesses to call and there is more than a brief delay, the Court may deem that
12 party to have rested.

13 6. The Court attempts to cooperate with professional witnesses and will,
14 except in extraordinary circumstances, accommodate them by permitting them to
15 be called out of sequence. Counsel must anticipate any such possibility and
16 discuss it with opposing counsel. If there is an objection, counsel must confer
17 with the Court in advance.

18 E. EXHIBITS

19 1. Each counsel should keep counsel's own list of exhibits and should note
20 when each has been admitted into evidence.

21 2. Each counsel is responsible for any exhibits that counsel secures from
22 the CRD and must return them before leaving the courtroom at the end of the
23 session.

24 3. An exhibit not previously marked should, at the time of its first mention,
25 be accompanied by a request that the CRD mark it for identification. To save
26 time, counsel must show a new exhibit to opposing counsel before it is mentioned
27 in Court.

28 4. Counsel are to advise the CRD of any agreements they have with

1 respect to the proposed exhibits and as to those exhibits that may be received so
2 that no further motion to admit need be made.

3 5. When referring to an exhibit, counsel should refer to its exhibit number
4 whenever possible. Witnesses should be asked to do the same.

5 6. Counsel must not ask witnesses to draw charts or diagrams nor ask the
6 Court's permission for a witness to do so. If counsel wishes to question a witness
7 in connection with graphic aids, the material must be fully prepared before the
8 court session starts.

9 F. DEPOSITIONS

10 1. All depositions to be used at trial, either as evidence or for
11 impeachment, must be with the CRD on the first day of trial or such earlier date
12 as the Court may order. Counsel should verify with the CRD that the relevant
13 deposition is in the CRD's possession.

14 2. In using depositions of an adverse party for impeachment, either one of
15 the following procedures may be adopted:

16 (a) If counsel wishes to read the questions and answers as alleged
17 impeachment and ask the witness no further questions on that subject, counsel
18 shall first state the page and line where the reading begins and the page and line
19 where the reading ends, and allow time for any objection. Counsel may then read
20 the portions of the deposition into the record.

21 (b) If counsel wishes to ask the witness further questions on the
22 subject matter, the deposition is placed in front of the witness and the witness is
23 told to read silently the pages and lines involved. Then counsel may either ask
24 the witness further questions on the matter and thereafter read the quotations, or
25 read the quotations and thereafter ask further questions. Counsel should have an
26 extra copy of the deposition for this purpose.

27 3. Where a witness is absent and the witness's testimony is offered by
28 deposition, counsel may (a) have a reader occupy the witness chair and read the

1 testimony of the witness while the examining lawyer asks the questions, or (b)
2 have counsel read both the questions and answers.

3 G. USING NUMEROUS ANSWERS TO INTERROGATORIES AND
4 REQUESTS FOR ADMISSIONS

5 Whenever counsel expects to offer a group of answers to interrogatories or
6 requests for admissions extracted from one or more lengthy documents, counsel
7 should prepare a new document listing each question and answer, and identifying
8 the document from which it has been extracted. Copies of this new document
9 should be given to the Court and opposing counsel. This procedure is intended to
10 save time.

11 H. ADVANCE NOTICE OF UNUSUAL OR DIFFICULT ISSUES

12 If any counsel has reason to anticipate that a difficult question of law or
13 evidence will necessitate legal argument requiring research or briefing, counsel
14 must give the Court advance notice. Counsel are directed to notify the CRD at
15 the day's adjournment if an unexpected legal issue arises that could not have been
16 foreseen and addressed by a motion *in limine*. See Fed. R. Evid. 103.

17
18 **N.B. "COUNSEL," AS USED IN THIS ORDER, INCLUDES PARTIES**
19 **APPEARING *IN PROPRIA PERSONA*.**

20 **IT IS SO ORDERED.**

21 DATED: May 15, 2019

22 /s/ Dale S. Fischer
23 Dale S. Fischer
24 United States District Judge
25
26
27
28

UNITED STATES DISTRICT COURT
CENTRAL DISTRICT OF CALIFORNIA

)	CASE NO. CV	DSF(x)
)		
)		
)		
Plaintiff(s),)		
)		
vs.)	EXHIBIT LIST	
)		
)		
)	<i>SAMPLE FORMAT</i>	
)		
Defendant(s).)		
)		

EX. No.	DESCRIPTION	IDENTIFIED	ADMITTED

FINAL JOINT TRIAL WITNESS ESTIMATE FORM

CASE: _____

TRIAL DATE: _____

	WITNESS NAME	PARTY CALLING WITNESS AND ESTIMATE	X-EXAMINER'S ESTIMATE	DESCRIPTION OF TESTIMONY	COMMENTS
1					
2					
3					
4					
5					
6					
7					
8					
9					
10					
	TOTAL ESTIMATES THIS PAGE:				

Instructions:

(1) List witnesses (last name first); (2) For description, be extremely brief, e.g., “eyewitness to accident” or “expert on standard of care;” (3) Use estimates within fractions of an hour, rounded off to closest quarter of an hour, e.g., if you estimate 20 minutes, make it .25. An estimate of one and one-half hours would be 1.5. An estimate of three-quarters of an hour would be .75; (4) Note special factors in “Comments” column, e.g., “Needs interpreter;” (5) Entries may be in handwriting if very neat and legible.